

**REMARKS**

Claims 31-60 are pending. No claims have been amended or canceled, and no new claims have been added in this response. Claims 31-60 will be pending, therefore, upon of the filing of this response.

The Office Action does not acknowledge that claim 60 is pending. Claim 60 was added in the second preliminary amendment filed on January 24, 2006. Applicant respectfully requests confirmation that claim 60 is pending. Applicant also respectfully requests to be informed of the status of claim 60.

Claims 31, 32, and 34-37 have been rejected in the office action under 35 U.S.C. § 103(a) as being obvious over published application WO2004/022827 (“the ‘827 application”), which is the publication of PCT application No. PCT/JP2003/010911 (“the ‘911 PCT application”).

Claims 33 and 38-59 have been objected to as being dependent upon a rejected base claim. Applicant gratefully acknowledges the Examiner’s statement in the office action that these claims would be allowable if rewritten in independent form to include the limitations of their base claim and any intervening claims.

Applicant respectfully traverses the rejection of claims 31, 32, and 34-37 because the ‘827 patent is not prior art with respect to the present application.

The present application is a U.S. national phase filing of International Application No. PCT/JP2003/009847 (“the ‘847 application”), which in turn claims priority to five Japanese applications filed between August 7, 2002 and December 27, 2002 (collectively referred to hereinafter as “the Japanese priority applications”).

A copy of the bibliographic data sheet for the '827 publication is attached hereto, for the convenience of the Examiner. As indicated on the data sheet, the '827 publication published on March 18, 2004, which is after the filing dates of each of the Japanese priority applications. The '847 publication, therefore, does not constitute prior art with respect to the present application under 35 U.S.C. §§ 102(a) or 102(b).

Moreover, the U.S. patent which claims the benefit of the '827 application, U.S. Patent No. 7,201,024 ("the '024 U.S. patent"), and the corresponding publication, U.S. Patent Application Publication No. 2006/0059954 ("the '954 U.S. publication") not do not constitute prior art with respect to the present application under 35 U.S.C. §§ 102(e)(1) or 102(e)(2) because the filing dates of the Japanese priority applications pre-date: (i) the actual filing date of '024 U.S. patent; (ii) the publication date of the '954 U.S. publication; and (iii) the filing date of the '911 PCT application (and, in any event, the filing date of the '911 PCT application cannot be used to establish the dates on which the '024 U.S. patent and the '954 U.S. publication are effective as references under 35 U.S.C. § 102(e) because the '827 publication was not published in the English language; see section 2136.02 of the Manual of Patent Examining Procedure).

Withdrawal of the rejection of claims 33 and 38-59 of the present application 35 U.S.C. § 103(a) is respectfully requested in view of the above remarks.

A notice of allowability is respectfully requested.

**DOCKET NO.:** P30,359-USA  
**Application No.:** 10/523,712  
**Office Action Dated:** April 2, 2009

**PATENT**

Date: July 8, 2009

/Frank T. Carroll/

Frank T. Carroll

Registration No. 42,392

Fox Rothschild LLP  
2000 Market Street  
Tenth Floor  
Philadelphia, PA 19103-3291  
Telephone: (215) 299-2000  
Facsimile: (215) 299-2150